

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

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|------------------------|---|-------------------|
| DEBRA MCCANN, et al., |) | |
| |) | |
| Plaintiffs |) | |
| |) | |
| v. |) | Civil 97-CV-196-B |
| |) | |
| WAL-MART STORES, INC., |) | |
| |) | |
| Defendant |) | |

ORDER AND MEMORANDUM OF DECISION

Brody, District Judge

Plaintiffs, Deborah McCann, Jillian McCann, and Jonathan McCann, brought suit against Defendant Wal-Mart Stores, Inc. for false imprisonment and defamation. On October 28, 1998, a jury found Defendant liable for false imprisonment and awarded damages to Plaintiffs in the aggregate amount of \$20,000. Before the Court is Defendant's Motion for Judgment as a Matter of Law and in the alternative for a New Trial or Certification to the Maine Law Court, as well as a Motion for Stay and Approval of Bond. For the reasons set forth below, Defendant's Motion for Stay and Approval of Bond is GRANTED, while its Motion for Judgment as a Matter of Law and in the alternative for a New Trial or Certification to the Maine Law Court is DENIED.

I. DISCUSSION

Defendant argues that it is entitled to judgment as a matter of law pursuant to Fed. R. Civ. P. 50(b) because Plaintiffs did not present sufficient evidence to demonstrate that they were falsely imprisoned. In the alternative, Defendant moves for a new trial pursuant to Fed. R. Civ. P. 59 on the ground that the Court erred by instructing the jury that it could "find for the plaintiffs with regard to false imprisonment if [it] conclud[ed] that the plaintiffs reasonably believed they

were not permitted to leave the store.” As a third option, Defendant urges the Court to certify to the Maine Law Court the question of what constitutes imprisonment under Maine tort law.

Each of Defendant’s alternative motions are based on the argument that false imprisonment requires a showing of actual physical restraint, or at the very least, that Defendant denied a request by Plaintiffs to leave the store. Defendant has advocated this position twice before by way of a Motion for Summary Judgment and a Proposed Jury Instruction, and the Court twice has rejected Defendant’s argument as it does again here. See Order Partially Affirming Recommended Decision of Magistrate Judge.

The Court is satisfied, based on an examination of relevant Maine authority as well as more modern cases from other jurisdictions, that its legal analysis of false imprisonment as reflected in its instruction to the jury accurately anticipates the interpretation of the Maine Law Court. Certification to that body is therefore unnecessary. Furthermore, certification is inappropriate because a ruling from the Law Court will not result in a final disposition of the case. For the same reason that Defendant's Motion for Certification is denied, its Motion for Judgment as a Matter of Law and in the alternative for a New Trial also is denied.

Defendant’s unopposed Motion for Stay and Approval of Bond is granted.

II. CONCLUSION

For the reasons stated above, Defendant’s Motion for Judgment as a Matter of Law and in the alternative for a New Trial or Certification to the Maine Law Court is DENIED and Defendant’s Motion for Stay and Approval of Bond is GRANTED.

SO ORDERED.

MORTON A. BRODY
United States District Judge

Dated this 22nd day of December, 1998.